

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Moskowitz, Scott A. and Cooperman, Marc

Appeal No. 2007-2273
Application No. 08/999,766



DECISION ON PETITION

This is a decision on the Petition to the Director to Suspend the Separate Paper Requirement Under CFR § 41.47(b), filed June 6, 2007 (“Petition”). The Petition will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3.

FINDINGS OF FACT

1. On July 10, 2003, Appellants filed an Appeal Brief that included a request for an oral hearing on the unnumbered first page of the Brief.
2. Appellants did not file a separate paper requesting an oral hearing as was required by 37 C.F.R. § 1.194(b) in effect at the time of the filing of the Appeal Brief.
3. On May 23, 2007, a Notification of Non-compliance Regarding Oral Hearing Request was mailed to Appellant’s counsel advising Appellants of the defect in the request for an oral hearing. The Notification further advised Appellants that any petition they might file seeking a suspension of the separate paper requirement must include “a showing of facts to establish

that an extraordinary situation exists and that justice requires the separate paper requirement . . . be suspended or waived.”

4. On June 6, 2007, Appellants filed the Petition alleging: (1) that the unnumbered first page of Appellants’ Appeal Brief constitutes a separate paper (¶ 7), (2) that “the lengthy prosecution of this application merits an oral hearing” (¶ 8), and (3) that an oral hearing “represents a fundamental opportunity for inventors and examiners to work through issues of substance” (¶ 9).

5. As to the first of the above arguments, it is clear from an examination of Appellants’ Appeal Brief that the request for an oral hearing was integrated into the Appeal Brief and was not filed as a separate paper.

6. As to the second and third of the above arguments, they are conclusory and do not explain why this appeal may qualify as an extraordinary situation. Examples of extraordinary situations are appeals involving complex technical and/or legal issues for which oral argument is necessary for an understanding and resolution of such issues.

DECISION

In view of the foregoing, the Petition is DENIED without prejudice to the filing of a renewed petition setting forth facts demonstrating that the present appeal presents an extraordinary situation in which the interest of justice requires that the separate paper requirement be suspended and an oral hearing be scheduled. Any such renewed petition must be filed within two weeks of the mailing date of this decision.

Michael R. Fleming

Michael R. Fleming
Chief Administrative Patent Judge
Board of Patent Appeals and Interferences

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